

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CHARLES E. NICHOLSON,
MARIA P. NICHOLSON,

Plaintiffs,

v.

U.S. BANK NATIONAL, et. al,

Defendants.

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Civil Action No. **3:11-CV-3272-L-BH**

ORDER

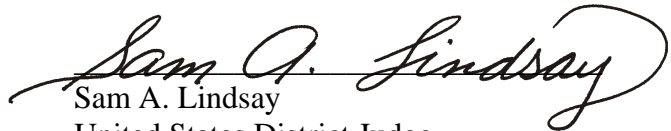
Before the court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, filed January 9, 2012. Plaintiffs did not file any objections.

Plaintiff Charles E. Nicholson filed this case on behalf of himself and Maria P. Nicholson (collectively, "Plaintiffs") and moved to proceed *in forma pauperis* ("IFP") on November 28, 2011. The IFP motion was signed only by Mr. Nicholson. By order dated November 29, 2011, Magistrate Judge Irma Ramirez informed Plaintiffs that Mr. Nicholson could not represent Ms. Nicholson, and that each plaintiff must either file an amended complaint that asserted only his or her personal claims, or they could both sign and submit a joint amended complaint. The order also advised that the application to proceed IFP was not signed by both plaintiffs and did not contain financial information for both plaintiffs, and that each party seeking to proceed *in forma pauperis* must submit a properly signed and completed application. The order provided that Plaintiffs had 30 days to submit their amended complaint(s) and motions to proceed IFP and warned that failure to comply with the order could result in the dismissal of the suit. To date, Plaintiffs have not filed amended complaint or IFP applications or anything else in this case. Accordingly, Magistrate Judge Ramirez

recommends that the court dismiss this case for failure to prosecute or follow orders of the court pursuant to Federal Rule of Civil Procedure 41(b).

Having reviewed the pleadings, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct. They are therefore **accepted** as those of the court. Accordingly, the court **denies** Plaintiffs' Application to Proceed in District Court Without Prepaying Fees or Costs. There is also pending before the court a Motion for the Appointment of Counsel, filed November 28, 2011. Plaintiffs provided no affidavit relating to their ability to pay costs and fees and failed to set forth their efforts to obtain counsel from legal aid or similar services. Accordingly, the court **denies** Plaintiffs' Motion for the Appointment of Counsel. For the reasons herein stated, the court **dismisses** this action **without prejudice** for failure to prosecute or follow orders of the court pursuant to Federal Rule of Civil Procedure 41(b).

It is so ordered this 21st day of February 2012.


Sam A. Lindsay
United States District Judge